

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 13, 2019**

CALL TO ORDER 5:59 pm	A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at South Campus Building, 40 11 th Street W, Ste. 200, Kalispell, Montana. Board members present were Jeff Larsen, Greg Stevens, Sandra Nogal, Mike Horn, Dean Sirucek, Ron Schlegel, and Elliot Adams. Kevin Lake had an excused absence. James Thompson joined us at 6:10 pm. Mark Mussman, Rachel Ezell, Erik Mack, Kari Nielsen, and Donna Valade represented the Flathead County Planning & Zoning Office. There were 12 members of the public in attendance.
APPROVAL OF MEETING MINUTES 6:00 pm	Sirucek made a motion, seconded by Nogal, to approve the January 09, 2019 meeting minutes. Motion carried by roll call.
PUBLIC COMMENT <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> 6:00 pm	None
DISCLOSURE OF ANY BOARD CONFLICT OF INTEREST 6:01 pm	None
HIDDEN BUCK MEADOWS (FPP-18-10) 6:01 pm	A request from Evergreen Business Center, Inc. with technical assistance from APEC Engineering, Inc. for preliminary plat approval of Hidden Buck Meadows, a proposal to create three (3) commercial lots and fifteen (15) residential lots on approximately 7.18 acres. The proposed subdivision would be served by Evergreen Water and Sewer District and access would be from Highway 2. The property is located within the Evergreen Zoning District immediately south of West Evergreen School.

STAFF REPORT <i>6:01 pm</i>	Donna Valade reviewed staff report FPP-18-10 for the board.
BOARD QUESTIONS <i>6:07 pm</i>	None
APPLICANT PRESENTATION <i>6:07 pm</i>	Marc Leichti with APEC Engineering, 111 Legend Trl., represented the applicants and said he was available for any further questions.
BOARD QUESTIONS <i>6:08 pm</i>	None
AGENCY COMMENTS <i>6:08 pm</i>	No agencies were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report.
PUBLIC COMMENT <i>6:08 pm</i>	None
MAIN MOTION TO ADOPT F.O.F. (FPP-18-10) <i>6:08 pm</i>	Schlegel made a motion, seconded by Sirucek, to adopt staff report FPP-18-10 as findings of fact.
BOARD DISCUSSION <i>6:09 pm</i>	None
ROLL CALL TO ADOPT F.O.F. (FPP-18-10) <i>6:09 pm</i>	The motion passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FPP-18-10) <i>6:09 pm</i>	Nogal made a motion, seconded by Schlegel, to recommend approval of FPP-18-10 to the County Commissioners.

**BOARD
DISCUSSION
6:10 pm**

Stevens brought up they had stricken condition #22 during the last meeting and wondered if they were going to do that again.

**MOTION TO
STRIKE
CONDITION #22
6:11 pm**

Schlegel motioned, seconded by Sirucek, to strike condition #22.

**BOARD
DISCUSSION
6:11 pm**

None

**ROLL CALL TO
STRIKE
CONDITION #22
6:11 pm**

The motion passed unanimously on a roll call vote.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-10)
6:11 pm**

The motion passed unanimously on a roll call vote.

**EVERGREEN
BUSINESS
CENTER INC.
(FZC-18-20)
6:12 pm**

A zone change request by APEC Engineering on behalf of Evergreen Business Center, Inc. for property located at 2150 Highway 2 East, near the community of Evergreen, MT, within the Evergreen Zoning District. The proposal would change the zoning on a parcel containing approximately 7.183 acres from B-2, EEO (General Business, Evergreen Enterprise Overlay) to B-3, EEO (Community Business, Evergreen Enterprise Overlay).

**STAFF REPORT
6:12 pm**

Kari Nielsen reviewed staff report FZC-18-20 for the board.

**BOARD
QUESTIONS
6:15 pm**

Larsen asked if there had been any public comments received and staff replied no.

Stevens questioned if the property located to the west was R-4. Staff confirmed it was.

**APPLICANT
PRESENTATION
6:16 pm**

Marc Leichti with APEC Engineering, 111 Legend Trl, represented the applicants and said he was available for any further questions.

BOARD QUESTIONS <i>6:16 pm</i>	None
AGENCY COMMENTS <i>6:16 pm</i>	No agencies were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report.
PUBLIC COMMENT <i>6:17 pm</i>	None
MAIN MOTION TO ADOPT F.O.F. (FZC-18-20) <i>6:17 pm</i>	Sirucek made a motion, seconded by Nogal, to adopt staff report FZC-18-20 as findings of fact.
BOARD DISCUSSION <i>6:17 pm</i>	None
ROLL CALL TO ADOPT F.O.F. (FZC-18-20) <i>6:17 pm</i>	The motion passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FZC-18-20) <i>6:18 pm</i>	Schlegel made a motion, seconded by Horn, to recommend approval of FZC-18-20 to the County Commissioners.
BOARD DISCUSSION <i>6:18 pm</i>	None
ROLL CALL TO RECOMMEND APPROVAL (FZC-18-20) <i>6:18 pm</i>	The motion passed unanimously on a roll call vote.

DAVID AND RUTH FRETZ ZONE CHANGE (FZC-18-22) 6:18 pm	A zone change request from David L. & Ruth A. Fretz for property located at 3945 and 3947 Highway 93 North, near Kalispell, MT, within the Highway 93 North Zoning District. The proposal would change the zoning on a parcel containing approximately 24.24 acres from SAG-10 (Suburban Agricultural) to I-1H (Light Industrial Highway).
STAFF REPORT 6:19 pm	Erik Mack reviewed staff report FZC-18-22 for the board.
BOARD QUESTIONS 6:21 pm	None
APPLICANT PRESENTATION 6:21 pm	Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He addressed the spot zoning issues brought up by the cities of Kalispell and Whitefish. He pointed out the similar zoning nearby. He also pointed out that the landfill was in the area and was an industrial use; although zoned agricultural. He said that there was going to be CCR's on the land as well. He said that they had spoken to MDOT and provided a letter that said they did approve the expanded use of the approach.
BOARD QUESTIONS 6:24 pm	None
AGENCY COMMENTS 6:24 pm	No agencies were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report and the technical representative did a good job addressing the written comment received.
PUBLIC COMMENT 6:24 pm	None
MAIN MOTION TO ADOPT F.O.F. (FZC-18-22) 6:24 pm	Nogal made a motion, seconded by Sirucek, to adopt staff report FZC-18-22 as findings of fact.
BOARD DISCUSSION 6:25 pm	None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-22)
6:25 pm**

The motion passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
(FZC-18-22)
6:25 pm**

Schlegel made a motion, seconded by Nogal, to recommend approval of FZC-18-22 to the County Commissioners.

**BOARD
DISCUSSION
6:25 pm**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-22)
6:25 pm**

The motion passed on an 8-1 vote, Sirucek dissented.

**KALTSCHMIDT
HOLDINGS LLC
ZONE CHANGE
(FZC-18-23)
6:26 pm**

A zone change request from Bick Smith on behalf of Kaltschmidt Holdings, LLC with technical assistance from Sands Surveying, Inc., for properties located on Prairie View Road near Whitefish, MT within the Blanchard Lake Zoning District. The proposal would change the zoning on four (4) parcels containing approximately 80.322 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural).

**STAFF REPORT
6:27 pm**

Donna Valade reviewed staff report FZC-18-23 for the board.

**BOARD
QUESTIONS
6:28 pm**

Larsen asked the staff to address the two negative findings that were reported in the staff report. Staff said the two findings could be mitigated and gave examples.

**APPLICANT
PRESENTATION
6:30 pm**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He addressed the issues that had been brought up and said the property was abutted by SAG-5 on the east and north side. The north side was Whitefish Hills Village, which had gone through an extensive subdivision and PUD approval. A part of the conditions for that subdivision was to extend the

right of way to the south. He said at the minimum, there would be emergency access to the north as well as the south. He pointed out the county standards would have to be met in the subdivision review. He stated there were no immediate plans for subdivision and the family wanted to get their ducks in a row.

**BOARD
QUESTIONS**
6:32 pm

Nogal asked where the official entrance would be and Mulcahy confirmed the location.

**AGENCY
COMMENTS**
6:33 pm

No agencies were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report.

**PUBLIC
COMMENT**
6:33 pm

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-18-23)**
6:34 pm

Sirucek made a motion, seconded by Nogal, to adopt staff report FZC-18-23 as findings of fact.

**BOARD
DISCUSSION**
6:34 pm

None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-23)**
6:34 pm

The motion passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-18-23)**
6:34 pm

Nogal made a motion, seconded by Sirucek, to recommend approval of FZC-18-23 to the County Commissioners.

**BOARD
DISCUSSION**
6:34 pm

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-23)
6:35 pm**

The motion passed unanimously on a roll call vote.

**KEENAN
LAKESHORE
VARIANCE
(FLV-18-06)
6:34 pm**

A request by Advanced Consulting Services, LLC on behalf of Robert & Susan Keenan for a Major Lakeshore Variance to the fill standards of Flathead County Lake and Lakeshore Protection Regulations (FCLR), specifically Sections 4.3F(2)(h)(2), (3), (5), and (6). The applicant is seeking to construct improvements to a 'Modified Dynamic Equilibrium Beach' that was approved by the Corps of Engineers and Flathead County and constructed in 2005. The subject property is located at 300 Holt Drive in Bigfork.

**STAFF REPORT
6:36 pm**

Rachel Ezell reviewed staff report FLV-18-06 for the board.

**BOARD
QUESTIONS
6:39 pm**

Larsen commented that it appeared Dr. Mark Lorang was concerned about the project. Ezell clarified his letter was actually written in 2005 when the project was first being proposed and supported that was the more appropriate option at the time. Ezell discussed the public comment of concern regarding whether or not an equilibrium beach was the best way to go. The second concern was if the gravel would inadvertently go in to the nearby wetlands. She was also concerned about the temporary access road that the Army Corp of Engineers allowed when they originally built the beach.

Larsen asked if the wetlands was a Corp. permit issue. Ezell said he was correct and they had indicated they didn't need anything from the applicants at this time because they were not placing any fill directly in the wetlands. The fill that they were placing, would be done in a "repair type style" so they considered it maintenance.

**APPLICANT
PRESENTATION
6:43 pm**

None

**AGENCY
COMMENTS
6:43 pm**

No agency comments were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report.

**PUBLIC
COMMENT
6:43 pm**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FLV-18-06)
6:43 pm**

Sirucek made a motion, seconded by Nogal, to adopt staff report FLV-18-06 as findings of fact.

**BOARD
DISCUSSION
6:44 pm**

None

**ROLL CALL TO
ADOPT F.O.F.
(FLV-18-06)
6:44 pm**

The motion passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FLV-18-06)
6:44 pm**

Sirucek made a motion, seconded by Nogal, to recommend approval of FLV-18-06 to the County Commissioners.

**BOARD
DISCUSSION
6:45 pm**

Staff asked if they wanted to add condition #11, as recommended by BLUAC. Stevens said it was already required to be clean gravel. The board discussed it further and decided that it would be redundant because it was already a requirement.

Schlegel wanted to know who designed the plan. Staff replied that Dr. Mark Lorang, who was not involved specifically with this project, had designed it originally for a different project along the north shore. Schlegel wanted to know what they were going to do with the debris. Staff said Dr. Lorang had noted that the debris was needed to stabilize the gravel beach. Schlegel's biggest concern was that it was 1-2" rock and said it should be 4-6" rock to stabilize the bank. He disapproved of the design because it was just going to wash back in to the lake.

Adams agreed with Schlegel that larger rock would be better than what had been proposed. Larsen agreed as well.

Sirucek was in agreement and said that, at the time of the original project, there were a couple of things that were different than now. One of those things was, under the FERC licensing, the level of water was held down further and earlier than it was now. Right now the water was down as low as it got but typically that would occur in 6 weeks to 2 months earlier. You would get all those fall storms that occur. He thought that had an effect on what was going on with some of the work. He wasn't sure if Dr. Lorang took in to consideration with the design he did based on how the operations were going

10-15 years ago and how they were being operated now. He thought he may change some of the design. He said he had been to the beach and looked at it. He felt it looked pretty successful, except for the angle has changed, especially in the last few years. This was not based upon scientific measurement but his visual evaluation. He felt that having 2-3 months higher water elevation and the waves in the fall was having an effect on how reactive, or erosion proof, this design had been.

Schlegel said prior design had a dike for protection but this did not. He felt this project was wide open to big waves coming in.

Adams felt there needed to be larger rocks to break up the waves. He had witnessed how hard the waves hit when the wind picked up in the fall.

Schlegel said that 1-2" rocks were nice in the summer time but not during the winter.

Nogal asked what the process would be like to make a recommendation in which the board further discussed. Staff said it could address that at the public hearing with the commissioners. Larsen asked if they could add a condition that [Dr. Lorang] be notified. The board decided it would be a good idea to make it a condition to consult with the original designer to confirm the size of rock that would best to stabilize the shoreline.

**MOTION TO ADD
CONDITION**
6:56 pm

Sirucek made a motion, seconded by Nogal, to add condition #11 stating:

1. *The applicant shall consult with the original designer to determine the appropriate size of fill for the project.*

**BOARD
DISCUSSION**
6:56 pm

None

ROLL CALL
6:56 pm

Motion passed on an 8-1 vote. Stevens dissented.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FLV-18-06)**
6:56 pm

The motion passed unanimously on a roll call vote.

WHITEFISH LLC ZONE CHANGE (FZC-18-24) 6:57 pm	A zone change request from Kurt & Kristine Kramer, on behalf of 162 Whitefish LLC and the Kristine A. Kramer Trust for properties located at 162 and 164 Wheeler Lane, near the community of Whitefish, within the Rural Whitefish Zoning District. The proposal would change the zoning on two parcels containing approximately 14 acres from R-1 (Suburban Residential) to RR-1 (Resort Residential).
STAFF REPORT 6:57 pm	Kari Nielsen reviewed staff report FZC-18-24 for the board.
BOARD QUESTIONS 7:02 pm	Nogal asked if the property to the left of the subject property was resort residential. Nielsen said it was county residential but there was Whitefish residential nearby. Nielsen made the point that Whitefish tried to keep the zoning similar when they annexed in properties.
APPLICANT PRESENTATION 7:03 pm	None
AGENCY COMMENTS 7:03 pm	No agencies were present to comment. Larsen acknowledged that staff had verbally reviewed the written agency comments during the staff report.
PUBLIC COMMENT 7:03 pm	Penny Porterfield, 160 Reservoir Rd, stated her property was located to the south of the subject property and that the nature of the neighborhood had less density (i.e. 5 or 1 acre lots). She said the applicant had sent out a letter to notify her neighbors of the possible zone change and stated her motive was to increase the value of the property. Porterfield did not feel that was reason enough to change the zoning, as it was not conducive to the area. She said it was a busy animal corridor. She felt high density was not good for that particular lot. She also said that the road referenced earlier had a steep hill and the traffic was already pretty heavy. She was also concerned about her property value being affected and was in opposition of the application
STAFF REBUTTAL/ COMMENTS 7:07 pm	None
MAIN MOTION TO ADOPT F.O.F. (FZC-18-24) 7:07 pm	Nogal made a motion, seconded by Sirucek, to adopt staff report FZC-18-24 as findings of fact.

**BOARD
DISCUSSION**
7:07 pm

Adams wondered if there was anything located on the property to the south. Staff said it was a private residence.

Schlegel asked which road was the access road. Staff said that it was through Reservoir Rd. and pointed it out on the map.

Adams asked if there was an easement that went through the other piece of property. Staff replied that they did not know the answer to that but it was a county maintained road.

Larsen said he had some concerns. He addressed condition #5 and said there would not be adequate sewer and water with 10 dwellings per acre. Sirucek agreed, especially with the soils out there. Larsen said they would have to annex to the city to do so. He was also concerned about the access. He said he was usually in favor of zone changes but he felt this particular one may be premature. He wondered if there were public services nearby. After having them identified on a map, Larsen said they could possibly be extended.

Nogal said Wisconsin Ave. was currently going through a big change with heavy development. She was concerned with traffic impact in that area. She was not in favor of the fact that it would have to be on septic.

Larsen felt it needed to go city in order to tie in to the city sewer and water with a high density. It did not fit to him.

Schlegel said the topography did not match up with the proposed density.

Adams wondered about the development on Wisconsin Ave. and whether or not it would be able to support that much traffic. He said it was a ways down the road but it was of concern.

Mussman said the city had adopted a Wisconsin Corridor Plan. He was familiar with it but explained that when they developed those types of plans they speculated the kind of land use. He was sure they had anticipated the old gravel pit to become something high density along that major transportation corridor. He brought up that it may be challenging just to get 14 one-acre lots on that property. He also addressed that Whitefish's best chance of affordable housing would be an annexation policy, if the owners were willing. This area was in close proximity to the city limits. Mussman said that either way there was going to be limited development potential in the county zoning with the limited public utilities available.

Larsen agreed with Mussman. He said there could be adequate sewer and water if it was tied in to the city.

Nielsen said the thought was that when the city annexed the property, they would try to stick as closely to the county zoning as possible. That could be one of the reasons the city was opposed to it because they would have to adopt the RR-1 zoning.

Larsen wanted to look at it honestly for what it was now.

Adams said he was all in favor of growth and businesses but he didn't think that piece of land was set up for that type of density.

The board further discussed what conditions may be needed to be modified and details of what would be allowed. Nielsen pointed out that there would be no minimum lot size so development could be in one corner of the lot if septic and setbacks allowed.

Stevens addressed that the applicant had shown up late and public comment had been closed. He filled her in on what the board was struggling with. He wondered if there was anything that the applicant could do to enlighten the board as to what the reason for the RR-1 zone would be; specifically if she felt they could accommodate sewer

Kristine Kramer, 164 Wheeler Lane, said she currently had no plans for development. She didn't know how much longer the property was going to be in their possession. She said, if there was growth, she wanted to see it done appropriately in regards to whoever may purchase it in the future. She said she was planning for "future down the road growth". She said she was preparing the county and the city for this kind of nebulous zone in terms of growth. She said, in terms of septic, whoever was going to develop it would have to comply with all restrictions and departments as well.

**MOTION TO
MODIFY F.O.F #5
7:25 pm**

Larsen motioned, seconded by Stevens, to modify Finding of Fact #5 to state the following:

The proposed amendment would facilitate the adequate provision of schools, parks, and other public requirements because the property is located within the Whitefish School District, the property is located near recreational opportunities, the proposal has the potential to generate 54 school age children and no comments were received from the school district.

**BOARD
DISCUSSION
7:26 pm**

None

**ROLL CALL TO
MODIFY F.O.F. #5
7:26 pm**

The motion passed unanimously on a roll call vote.

MOTION TO ADD F.O.F #12 7:26 pm	<p>Larsen motioned, seconded by Nogal, to add Finding of Fact #12 to state the following:</p> <p style="padding-left: 40px;"><i>The proposed amendment may not facilitate the adequate provision of water and sewer because the proposed zoning density may not be feasible with onsite septic and well.</i></p>
BOARD DISCUSSION 7:27 pm	<p>None</p>
ROLL CALL TO ADD F.O.F. #12 7:27 pm	<p>The motion passed unanimously on a roll call vote.</p>
ROLL CALL TO ADOPT F.O.F. AS AMMENDED (FZC-18-24) 7:27 pm	<p>The motion passed unanimously on a roll call vote.</p>
MAIN MOTION TO RECOMMEND APPROVAL (FZC-18-24) 7:28 pm	<p>Stevens made a motion, seconded by Horn, to recommend approval of FZC-18-24 to the County Commissioners.</p>
BOARD DISCUSSION 7:28 pm	<p>Stevens felt the discussion was more appropriate for a subdivision application and not a zone change application albeit the concerns were appropriate. He said the septic situation did not fit well with the particular proposed zone but they did not have a development proposal to see if the proposal and septic regulations would fit. It made him uncomfortable to base his decision on development standards when it was only a zone change. Given the fact that there was RR-1 and WRR-1 was all around there, he did not see how the application was out of line with the area. He said it was up to the property owner to come up with a development that fit the zoning, which may require annexation in the future, but was speculation at this point in time. He was in favor of the zone change.</p> <p>Larsen said, since he was the one who raised the issue with the septic systems, he believed it was part of their zoning criteria in the zone change. He just did not see it at that density. Stevens said he did not either at that density. Larsen said that was what they were looking at within this zone change.</p>

Adams asked Stevens if he was suggesting they should go ahead with the zone change and allow the development to be dictated by how much growth was allowed by the available water and sewer. Stevens said the development would be designed by the Department of Environmental Quality of the State of Montana. Adams said he saw his point.

Larsen said, based on his expertise, you would not be able to get any more density than the present R-1 unless it was annexed within the city. He didn't want to give a false sense of security without going in to the city.

Adams felt like it needed to go to the city.

Stevens asked how much the zone change application cost. Stevens said the use of a consultant would have been a good investment for this proposal because they could have advised a different alternative.

Sirucek brought up that Whitefish said they did not like the proposal and that should be taken in to consideration.

Nogal agreed with Sirucek. She said it was one thing when they were talking about something that was downhill from the landfill but this was right on their backdoor. She was uncomfortable with the message that they could approve it and leave it up to the DEQ to figure out.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-24)
7:37 pm**

The motion failed to pass on a 3-5 roll call vote. Nogal, Thompson, Dirucek, Larsen, and Adams dissented

**NEW AND OLD
BUSINESS
7:39 pm**

Mussman said that the Commissioners had adopted a resolution of intent for the zoning text amendments.

Sirucek asked about the Trails Plan and where it was at in the process. Stevens made a comment about Planning Department's involvement in the updating of the Trails Plan. They further discussed the Trails Plan in detail.

**MEETING
ADJOURNED
7:45 pm**

The meeting was adjourned on a motion by Schlegel and Sirucek at approximately 7:45 pm. The next meeting will be held on March 13, 2019.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 03/13 /2019